



NASA Policy Directive

NPD 1400.2C

Effective Date: July 21, 2008

Expiration Date: July 21, 2013

COMPLIANCE IS MANDATORY[Printable Format \(PDF\)](#)

Request Notification of Change

 (NASA Only)

Subject: Publishing NASA Documents in the Federal Register and Responding to Regulatory Actions (Revalidated 2/18/2009)

Responsible Office: Office of Internal Controls and Management Systems

1. POLICY

a. It is NASA's policy to issue notices to provide information of public interest and initiate rulemaking proceedings to amend its regulations that are codified in Title 14 of the Code of Federal Regulations (CFR).

b. NASA publishes its notices and regulations in the Federal Register (FR) to give the general public information on the Agency's activities and, where applicable, an opportunity to comment. Notices and regulations are prepared in accordance with the FR Document Drafting Handbook requirements and are certified as prescribed by 1 CFR, Chapters I and II, Parts 1-12, 15-22, and 51, Administrative Committee of the Federal Register.

(1) Notice categories include, but are not limited to, notices of meetings for the NASA Advisory Council (NAC) or NAC subcommittees, prospective patent licenses, government-owned inventions available for licensing, final environmental impact statements, and information collections. NASA notices are issued by the office of primary responsibility to achieve compliance with external requirements, as described in paragraphs 5.e., 5.f., 5.g., 5.k., and 5.l. herein.

(2) Regulation categories include proposed rules (i.e., notices of proposed rulemaking), preliminary rules (i.e., advance notices of proposed rulemaking), final rules, interim final rules, and direct final rules. A regulation is amended or issued if an Official-in-Charge and the General Counsel determine that it is required or is the best available method for achieving compliance with the Agency's objectives. NASA regulations are:

(a) Submitted to the Office of Management and Budget (OMB) for approval in accordance with Executive Order (EO) 12866, Regulatory Planning and Review.

(b) Submitted to the Congress and the Government Accountability Office (GAO) for congressional review in accordance with 5 United States Code (USC), Chapter 8, Sections 801 - 808.

(c) Posted in the Federal Docket Management System (FDMS) for public comment, as prescribed by the E-Government Act of 2002, E-Rulemaking initiative.

c. NASA submits its planned regulatory priorities to OMB's annual Regulatory Plan and summarizes its regulations under development in the semiannual Unified Agenda of Federal Regulatory and Deregulatory Actions, as prescribed by EO 12866.

2. APPLICABILITY

This NPD is applicable to NASA Headquarters and NASA Centers, including Component Facilities.

3. AUTHORITY

a. The National Aeronautics and Space Act of 1958, as amended, 42 U.S.C. § 2473 (c)(1), Section 203(c)(1).

- b. Administrative Committee of the Federal Register, 1 C.F.R. pts. 1-12, 15-22, and 51.
- c. Regulatory Planning and Review, Exec. Order No. 12,866, 3 C.F.R. 638 (1993), as amended.

4. APPLICABLE DOCUMENTS

- a. Inspector General Act of 1978, as amended, 5 United States Code (U.S.C.) App.
- b. Federal Advisory Committee Act, 5 U.S.C. App., as amended.
- c. Government in the Sunshine Act, 5 U.S.C. § 552b.
- d. Regulatory Flexibility Act of 1980, 5 U.S.C. 601 et seq.
- e. Congressional Review of Agency Rulemaking, 5 U.S.C. §§ 801-808.
- f. National Environmental Policy Act of 1969, 42 U.S.C. § 4321 et seq., as amended.
- g. E-Government Act of 2002, Public Law 107-347, as amended.
- h. Civil Justice Reform, Exec. Order No. 12,988, 3 C.F.R. 157 (1996).
- i. Federalism, Exec. Order No. 13,132, 3 C.F.R. 206 (1999).
- j. Regulations Implementing the Government in the Sunshine Act, 29 C.F.R. pt. 2203.
- k. Federal Advisory Committee Management, 41 C.F.R. pts. 102-103.
- l. NPR 1441.1, NASA Records Retention Schedules.
- m. [Federal Register Document Drafting Handbook, 1998 edition](#).
- n. Standard Operating Procedures for Publishing NASA Documents in the Federal Register (Attachment A).

5. RESPONSIBILITY

- a. The NASA Administrator shall sign all regulations prior to publication in the FR, except as provided in paragraph 5.e. below.
- b. The NASA Deputy Administrator, as the Regulatory Policy Officer, in accordance with EO 12866, shall approve NASA's statement of regulatory priorities included in OMB's annual Regulatory Plan.
- c. The Assistant Administrator for Internal Controls and Management Systems (OICMS) shall:
 - (1) Ensure that all external requirements for preparation and submission of Agency notices and regulations are properly followed and implemented.
 - (2) Approve NASA's submission to OMB's semiannual Unified Agenda.
 - (3) Designate an FR Liaison Officer.
- d. The FR Liaison Officer, within OICMS, shall:
 - (1) Ensure that all NASA notices and regulations are properly prepared, coordinated, and approved in accordance with the FR Document Drafting Handbook and the Standard Operating Procedures for Publishing NASA Documents in the Federal Register.
 - (2) Ensure that regulations are sent to the Congress and the GAO for congressional review before they take effect, except as provided in paragraph 5.e. below.
 - (3) Obtain OMB's approval on all NASA regulations before submitting the regulations to the FR for publication, except as provided in paragraph 5.e. below.
 - (4) Certify and transmit all NASA notices and regulations to the FR for publication, except as provided in paragraph 5.e. below.
 - (5) Coordinate and submit NASA's regulatory priorities and regulations under development to OMB for inclusion in the Regulatory Plan and the Unified Agenda using the Regulatory Information Service Center and Office of Information and Regulatory Affairs Consolidated Information System.
 - (6) Post all NASA regulations in the FDMS to receive and respond to public comments, in accordance with the E-Government Act of 2002, E-Rulemaking initiative.

(7) Maintain all records pertaining to NASA notices and regulations and the Agency's submission to the Regulatory Plan and the Unified Agenda, as prescribed by NPR 1441.1, NASA Records Retention Schedules.

e. The Assistant Administrator for Procurement, or designee, shall:

(1) Prepare and sign all notices and regulations dealing with the NASA Grants and Cooperative Agreements Handbook, 14 CFR Part 1260, et seq.

(2) Certify and transmit all procurement-related notices and regulations to the FR for publication.

(3) Post all procurement-related regulations in the FDMS to receive and respond to public comments, in accordance with the E-Government Act of 2002, E-Rulemaking initiative.

(4) Submit regulatory priorities and regulations under development for 14 CFR Part 1260 to the FR Liaison Officer for inclusion in the Regulatory Plan and the Unified Agenda.

f. The NASA General Counsel, or designee, shall prepare and sign all notices announcing the availability of patents for licensing and notices of intent to grant a specific patent license. The Office of the General Counsel shall advise OICMS on the legal requirements of publishing in the FR and is responsible for reviewing and concurring on all NASA regulations, as prescribed by EO 12988, Civil Justice Reform.

g. The Assistant Administrator for Infrastructure and Administration, or designee, shall:

(1) Prepare and coordinate notices that have the potential to adversely affect the environment or cause public controversy due to environmental impacts to ensure compliance with 42 USC 4321, National Environmental Policy Act of 1969, as amended.

(2) Designate a Federalism Officer.

(3) Designate an Indian Tribal Governments' Liaison Officer.

h. The Federalism Officer shall review the Agency's consolidation of regulations under development, prior to submission to OMB's Unified Agenda, in order to:

(1) Determine the impact of each NASA regulation on State and local government, pursuant to EO 13132, Federalism.

(2) Ensure appropriate consultation with State and local officials when NASA regulations preempt State law.

(3) Submit a federalism summary impact statement to OMB prior to the promulgation of a NASA regulation that preempts State law.

(4) Prior to the promulgation of a NASA regulation that preempts State law, make available to OMB any written communications submitted to NASA by State and local officials.

i. The Indian Tribal Governments' Liaison Officer shall review the Agency's consolidation of regulations under development, prior to submission to OMB's Unified Agenda, in order to:

(1) Determine the impact on Indian tribal governments for each NASA regulation, pursuant to EO 13175.

(2) Ensure appropriate consultation with Indian tribal government officials when NASA regulations preempt tribal law.

(3) Submit an Indian tribal government impact statement to OMB prior to the promulgation of a NASA regulation preempting Indian tribal law.

j. The Assistant Administrator for External Relations, or designee, shall:

(1) Review all international and export control-related notices and regulations to ensure compliance with appropriate international agreements, U.S. foreign policies, and export control regulations.

(2) Designate a NASA Federal Advisory Committee Management Officer (ACMO).

k. The ACMO shall sign all notices announcing NASA Federal advisory committee meetings, including meetings of the NASA Advisory Council and its committees, the Aerospace Safety Advisory Panel, and other NASA Federal advisory committee meetings. Such meeting notices shall be published in the FR at least 15 calendar days prior to the date of the meeting, as prescribed by 41 CFR Parts 102-103, Federal Advisory Committee Management.

l. The Chief Information Officer, or designee, shall:

(1) Prepare and sign all notices dealing with information collections under OMB review as part of NASA's continuing effort to reduce paperwork and respondent burden, as well as notices dealing with NASA systems of records subject to the Privacy Act of 1974.

(2) Coordinate NASA's current memorandum of agreement with the Environmental Protection Agency (EPA) to support the maintenance and operations of the FDMS, as well as transfer funding to EPA that reasonably reflect NASA's allocable share of calendar year costs for implementation, use, operations, and management of the FDMS.

m. The Assistant Administrator for Small Business Programs shall review all regulations to be published in the FR to determine whether the regulations are likely to have a significant economic impact on a substantial number of small entities, in accordance with the Regulatory Flexibility Act of 1980.

n. The Executive Director for Headquarters Operations, or designee, shall maintain tracking of all notices and regulations published under the Agency's assigned billing code.

o. The Assistant Administrator for Human Capital Management, or designee, shall review all regulations to be published in the FR to determine whether the regulations are likely to cause a substantive change in conditions of employment.

p. Officials-in-Charge, or their designees, shall:

(1) Ensure that all notices and regulations under their authority comply with the provisions of this NPD.

(2) Prepare notices of upcoming meetings for Federal advisory committee meetings under their authority and coordinate such notices with the NASA Federal ACMO for approval with sufficient lead-time to ensure that notices are published in the FR not less than 15 calendar days prior to the meeting.

(3) Obtain concurrence from the NASA Office of the General Counsel and written approval from the NASA Federal ACMO for any NASA Federal advisory committee meetings:

(a) that are of an administrative, preparatory, or fact-finding nature not subject to the Federal Advisory Committee Act (FACA); or

(b) that require Agency written approval to formally close the meeting to the public in accordance with applicable FACA and the Government in the Sunshine Act, and implementing regulations.

(4) Consult the Office of the General Counsel to determine the need to amend or issue regulations.

(5) Ensure that regulations under their authority do not replicate existing internal or external requirements. However, cross-referencing may be used to cite existing requirements.

(6) Review the currency and appropriateness of their regulations at least once every five years and each time the underlying statutory authority is amended, in order to determine if action is needed to amend or cancel regulations.

(7) Respond to public comments on regulations under their authority by submitting those responses to the FR Liaison Officer for posting in the FDMS.

(8) Ensure that material is properly prepared, coordinated, and editorially correct, with emphasis on brevity and clarity.

(9) Coordinate all notices and regulations with the FR Liaison Officer.

(10) Submit regulatory priorities and regulations under development to the FR Liaison Officer for inclusion in the Regulatory Plan and the Unified Agenda.

q. NASA Center Directors, or their designee, proposing notices and regulations, shall coordinate with the Office of the General Counsel for concurrence, the Office of the Associate Administrator for approval, and the NASA FR Liaison Officer for publication.

r. The Inspector General, in accordance with the Inspector General Act, 5 U.S.C. Appendix 3, shall review all regulations prior to publication in the FR. Notices signed by the Inspector General will be reviewed by legal counsel to the Inspector General and processed through the NASA FR Liaison Officer for publication.

6. DELEGATION OF AUTHORITY

None.

7. MEASUREMENTS

None.

8. CANCELLATION

NPD 1400.2B, dated Jul 21 2008.

Revalidated February 18, 2009
Original signed by
/s/ Michael Griffin
Administrator

ATTACHMENT A: (TEXT)

Publishing NASA Documents in the Federal Register Standard Operating Procedures

1. Preparation of Notices Signed by the Designated Official

a. Prepare notice using the guidelines outlined in the [FR Document Drafting Handbook](#). Once notice is finalized, submit the following to OICMS:

- (1) The original notice signed in
- (2) Three copies of the signed notice.
- (3) An electronic copy of the notice that has been saved in Microsoft Word format on a labeled CD or diskette. Note: There should be only one notice per CD/diskette.

2. Preparation of Regulations Signed by the NASA Administrator

a. Prepare regulation using the guidelines outlined in the FR Document Drafting Handbook. Once regulation is finalized, perform the following to coordinate for the NASA Administrator's signature:

- (1) Request a Regulatory Identification Number from the FR Liaison Officer.
 - (2) In the Preamble of the regulation, include language that instructs the public to submit comments to <http://www.regulations.gov/>.
 - (3) Prepare an Action Document Summary, NHQ 117, listing the organizations that will review/concur. At a minimum, obtain concurrences from the Office of the Chief Financial Officer, the Office of the General Counsel, the Office of Human Capital Management, the Office of External Relations, the Office of the Inspector General, and the Office of Internal Controls and Management Systems.
 - (4) Make the appropriate number of copies and distribute the packages to the organizations for simultaneous concurrence.
 - (5) E-mail a copy of the regulation to the FR Liaison Officer for coordination of OMB's approval and OHCM's review while concurrences are being obtained.
- b. After receiving all concurrences and OMB's approval, assemble the regulation in an Administrator's (A) package. See package assembly requirements outlined in NPR 1450.10.
- c. Forward the package to the Executive Secretariat for the NASA Administrator's signature. Note: Signature or autopen must be in
- d. Once the regulation is signed, prepare three Submission of Federal Rules Under the Congressional Review Act forms (attached) and perform the following:
- (1) Attach a copy of the regulation to the form, make three copies of the package, and obtain the respective OIC's original signature on all three packages.
 - (2) Submit the original signed packages to the FR Liaison Officer. Note: the FR Liaison Officer will forward the packages to the GAO, the House of Representatives, and the Senate for congressional review.
 - (3) Submit the original signed regulation, three copies of the original, an electronic copy of the regulation in Microsoft Word format on a labeled CD or diskette, and one copy of the ADS with concurrences from the concurring

organizations to the FR Liaison Officer. Note: The FR Liaison Officer will forward the regulation to the FR for publication. Notices and regulations are published three days after receipt by the FR.



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Submission of Federal Rules Under the Congressional Review Act

☐ President of the Senate☐ Speaker of the House of Representatives☐ GAO

Please fill the circles electronically or with black pen or #2 pencil.

1. Name of Department or Agency		2. Subdivision or Office	
3. Rule Title			
4. Regulation Identifier Number (RIN) or Other Unique Identifier (if applicable)			
5. Major Rule		Non-major Rule	
6. Final Rule		Other	
7. With respect to this rule, did your agency solicit public comments?		Yes <input checked="" type="radio"/>	No <input type="radio"/> N/A <input type="radio"/>
8. Priority of Regulation (fill in one)			
Economically Significant; or Significant; or Substantive, Nonsignificant		Routine and Frequent or Informational/Administrative/Other (Do not complete the other side of this form if filled in above.)	
9. Effective Date (if applicable)			
10. Concise Summary of Rule (fill in one or both)		attached	stated in rule

Submitted by: _____ (signature)

Name: _____

Title: _____

For Congressional Use Only:

Date Received: _____

Committee of Jurisdiction: _____

3/23/99

Additional copies can be accessed here: http://www.whitehouse.gov/omb/assets/omb/inforeg/fed_rule.pdf

(URL for Graphic)

None.

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